



1       1.     The Fact Discovery cutoff date is currently January 13, 2014;

2       2.     The last date for the service of expert designations (with reports) is currently

3 January 20, 2014;

4       3.     The last date for the service of rebuttal expert designations (with reports) is

5 currently February 3, 2014;

6       4.     The Expert Discovery cutoff date is currently February 20, 2014;

7       5.     The Final Pre-Trial Conference is May 25, 2014.

8       6.     The parties conducted a number of non-party depositions in November 2013. San

9 Benito took the depositions of personnel from KISAQ and Frazier.

10      7.     The depositions of San Benito personnel were set to be taken on January 7, 2014

11 through January 10, 2014. Unfortunately, counsel for KISAQ and Frazier was ill and the

12 depositions went off calendar. The parties now reset the depositions; they are expected to

13 proceed during the period from January 23, 2014 through January 31, 2014. The parties will not

14 be able to complete these depositions prior to the current fact discovery cutoff date of January 13,

15 2013.

16      8.     Under 32 CFR §§ 97.6(c), 516.40, and 516.41, the Army must authorize the

17 appearance of its personnel or the production of official documents in private litigation. On

18 November 12, 2013, pursuant to Department of Defense directives, 32 CFR § 97.6(c), and Army

19 regulations, 32 CFR §§ 516.40 - 516.48, San Benito Supply wrote to the Sacramento Office of

20 Counsel for the United States Corps of Engineers, requesting permission to take the deposition of

21 Karl Mai, the Materials/Architectural Engineer for the Corps on the subject project. Mr. Mai is

22 expected to have knowledge on subjects related to the concrete mix designs, submittals regarding

23 the concrete, and other facts relevant to the issues in this lawsuit. Mr. Mai has knowledge of

24 how the Corps dealt with the submittals for the concrete originally placed as well as the

25 replacement concrete utilized, as he is believed to be the person who rejected or approved those

26 submittals.

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1       9.     San Benito Supply has been in contact with the Office of Counsel for the Corps.  
2 On January 8, 2014, permission was given to take the deposition of Mr. Mai on January 13,  
3 2014.

4       10.    San Benito, Frazier, KISAQ, Federal, and Western (collectively "the Parties")  
5 agree that an additional 30 days are needed to complete the fact discovery and that it would be  
6 beneficial to complete the fact discovery prior to the expert disclosures. The Parties agree that all  
7 other discovery cutoff dates should be extended by 30 days.

8       11.    The Parties, through their attorneys of record, hereby stipulate to the continuance  
9 of the Fact Discovery cutoff date from January 13, 2014 to February 13, 2014.

10      12.    The parties, through their attorneys of record, hereby stipulate to the continuance  
11 of the service of expert designations (with reports) deadline from January 20, 2014 to  
12 February 20, 2014.

13      13.    The parties, through their attorneys of record, hereby stipulate to the continuance  
14 of the rebuttal expert designations (with reports) deadline from February 3, 2014 to March 3,  
15 2014.

16      14.    The parties, through their attorneys of record, hereby stipulate to the continuance  
17 of the Expert Discovery cutoff date from February 20, 2014 to March 20, 2014.

18      15.    This stipulation may be executed by fax or email and that fax or email signature  
19 will be treated as an original for all purposes.

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1       16. This stipulation may be executed in counterparts, and that all executed  
2 counterparts will be taken together and treated as one full and complete document.

3       **IT IS SO STIPULATED AND AGREED.**

4       DATED: January 14, 2014

5       MONTELEONE & McCRRORY, LLP

6       By   
7       WILLIAM J. INGALSBE  
8       DIANA M. DRON  
9       Attorneys for Plaintiff, SAN BENITO SUPPLY  
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13      (714) 565-3170

14      DATED: January 14, 2014

15      CASE, IBRAHIM & CLAUSS, LLP

16       By   
17       BRIAN S. CASE  
18       F. ALBERT IBRAHIM  
19       Attorneys for Defendants KISAQ-RQ 8A JV,,  
20       FEDERAL INSURANCE COMPANY AND  
21       WESTERN SURETY COMPANY and  
22       Defendant/Counterclaimant FRAZIER MASONRY  
23       CORPORATION  
24       [aibrahim@ciclaw.com](mailto:aibrahim@ciclaw.com)

25       **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

26      Date: January 28, 2014

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28       HOWARD R. LLOYD  
United States Magistrate Judge